

AMENDED IN SENATE JULY 17, 2003
AMENDED IN ASSEMBLY MAY 19, 2003
AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1599

**Introduced by Assembly Member Harman
(Coauthor: Assembly Member Koretz)**

February 21, 2003

~~An act to amend, add, and repeal Section 14571 of, and to add and repeal Section 14571.05 of, An act to add and repeal Section 14576 of~~ the Public Resources Code, relating to the California Beverage Container Recycling and Litter Reduction Act.

LEGISLATIVE COUNSEL'S DIGEST

AB 1599, as amended, Harman. California Beverage Container Recycling and Litter Reduction Act.

The existing California Beverage Container Recycling and Litter Reduction Act defines “convenience zone” for the purposes of the act and requires that every convenience zone be served by at least one certified recycling center, with specified operating hours. The act requires, if the recycling center consists of reverse vending machines or other unmanned automated equipment, that the equipment be properly functioning, accept all types of empty beverage containers at the recycling location, and pay posted refund values.

This bill would ~~provide that a recycling center that is a supermarket site and consists of reverse vending machines or other automated equipment is open for business for purposes of the act if a dealer, as~~

~~defined, authorizes the supermarket site to comply with specified alternative operating requirements. The bill would require a supermarket site operating pursuant to the alternative requirements to comply with various conditions, including being operational at least 95% of operable time as defined, providing a receptacle adjacent to the reverse vending machine for certain types of beverage containers larger than 3 liters, and staffing the supermarket site at least 20 hours per week. The bill would require the Department of Conservation to submit a report to the Legislature on or before July 1, 2008, regarding the effectiveness of reverse vending machines in maintaining or increasing recycling at supermarket sites~~ *require the department, from January 1, 2004, to December 31, 2006, inclusive, to establish a pilot program using supermarket sites that use both reverse vending machines and staffed recycling centers to determine whether or not these recycling centers increase recycling rates and provide greater convenience and ease of use for consumers. The bill would provide that a recycling center that is a supermarket site and consists of reverse vending machines is open for business for purposes of the act if the department authorizes the supermarket site to participate in the pilot program, pursuant to specified eligibility requirements, and the supermarket site complies with specified operating requirements. The bill would require a supermarket site participating in the pilot program to be operational at least 95% of operable time as defined, to provide a receptacle adjacent to the reverse vending machine for certain types of beverage containers larger than 3 liters, and to be open for business at least 20 hours per week.*

The bill would require a supermarket site participating in the pilot project to be open for business for at least 30 hours each week if the department determines that the volume of beverage containers redeemed at the supermarket site has decreased by a specified amount, unless the department makes a specified determination. The bill would require the department to monitor the volume of beverage containers redeemed at each supermarket site participating in the pilot program at least once every 3-month period, and to conduct an annual review of each supermarket site participating in the pilot program.

The bill would repeal the authorization for the pilot program January 1, 2007, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends that date. The bill would require the department to report to the Governor and Legislature by July 1, 2006, on the effectiveness of the pilot program and make recommendations.

The bill would make its provisions contingent upon SB 23 being enacted and becoming effective, ~~and provide that the bill's provisions shall remain in effect only until January 1, 2009.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. Section 14571 of the Public Resources Code~~

SECTION 1. Section 14576 is added to the Public Resources Code, to read:

14576. (a) From January 1, 2004, to December 31, 2006, inclusive, the department shall establish a pilot program using supermarket sites that use both reverse vending machines and staffed recycling centers to determine whether or not these recycling centers increase recycling rates and provide greater convenience and ease of use for consumers.

(b) The pilot program shall comply with all of the following criteria:

(1) The program shall consist of not more than 50 supermarket sites that represent a valid statistical sampling of the state, as determined by the department.

(2) Each dealer where the supermarket site is located certifies to the department in writing that it has authorized the recycling center to participate in the pilot program.

(3) Each supermarket site in the pilot program has at least two reverse vending machines that accept all types of beverage containers, except those beverage containers that are labeled with a "2," as specified in subdivision (a) of Section 18015 and are larger than three liters.

(4) The department authorizes each supermarket site as being a site suitable for inclusion in the pilot program based upon the volume of beverage containers recycled and the volume of beverage containers recycled through reverse vending machines.

(c) Each supermarket site participating in the pilot program shall comply with all of the following requirements:

(1) The supermarket site is inspected by the operator that participates in the pilot program at least once each day to maintain and empty the machines and ensure that the site is kept clean.

1 (2) *The supermarket site makes monthly service records*
2 *available to the department, showing the number of complaints per*
3 *site, if any, and the response time for each service call.*

4 (3) (A) *The supermarket site is operational at least 95 percent*
5 *of operable time.*

6 (B) *For purposes of this paragraph, “operable time” means*
7 *the actual operating hours the supermarket site is required to be*
8 *open for business each month. A supermarket site’s operating*
9 *hours shall be determined consistent with the supermarket’s*
10 *operational hours, subject to applicable curfew requirements*
11 *imposed by local ordinance.*

12 (4) *The supermarket site is not inoperative more than once a*
13 *month, and if that breakdown rate is exceeded, the supermarket*
14 *site replaces the reverse vending machine within three business*
15 *days.*

16 (5) *The supermarket site repairs a reverse vending machine*
17 *within five business hours in response to receiving a complaint by*
18 *a consumer, the dealer, or the department that the recycling center*
19 *is not operational during operable time.*

20 (6) *The supermarket site provides a receptacle adjacent to the*
21 *reverse vending machine for beverage containers that are labeled*
22 *with a “2,” as specified in subdivision (a) of Section 18015, and*
23 *that are larger than three liters. This receptacle shall state the*
24 *hours in which a consumer may return the container to the site and*
25 *receive a redemption payment.*

26 (7) *The operator of the supermarket site has an attendant*
27 *present at the supermarket site a minimum of 20 hours per week,*
28 *including no fewer than three hours on a Saturday or a Sunday*
29 *between the hours of 9 a.m. and 5 p.m. and no fewer than three*
30 *evening hours between the hours of 5 p.m. and 9 p.m. during one*
31 *weekday evening.*

32 (8) *The operator of the supermarket site provides instructions*
33 *for use of the reverse vending machine at the supermarket site in*
34 *appropriate languages and in pictorial representations*
35 *demonstrating how to use the reverse vending machine.*

36 (9) *The operator of the supermarket site maintains a toll-free*
37 *telephone number attended by a line operator during operable*
38 *time to answer calls from any person regarding the performance*
39 *of its reverse vending machine.*

1 (10) *The operator of the supermarket site posts information*
2 *identifying the location of, and directions to, the nearest certified*
3 *recycling center, subject to the approval of the dealer at the*
4 *supermarket site.*

5 (d) *If the department determines that the total volume of*
6 *beverage containers redeemed at a supermarket site authorized to*
7 *participate in the pilot program decreases by more than 10 percent*
8 *from the volume reported for the prior year, the supermarket site*
9 *shall be staffed for at least 30 hours per week, unless the*
10 *department determines that the site may continue staffed*
11 *operations for at least 20 hours per week.*

12 (e) (1) *The department shall monitor the volume of beverage*
13 *containers redeemed at each supermarket site participating in the*
14 *pilot program at least once every three-month period.*

15 (2) *The department shall conduct an annual review of each*
16 *supermarket site participating in the pilot program to determine*
17 *overall performance and make operational adjustments.*

18 (3) *The department shall disqualify an individual site from*
19 *participation in the pilot program, effective within seven calendar*
20 *days of notice provided to the operator, upon a determination that*
21 *the continued operation of the supermarket site within the pilot*
22 *program does not further the goals of the division.*

23 (4) *The department shall, upon the written request of the dealer*
24 *at the supermarket site and within seven calendar days of the*
25 *request made by the dealer to the department, disqualify the*
26 *operator for further participation in the pilot program at that*
27 *supermarket site.*

28 (f) *The department may adopt emergency regulations to*
29 *implement this section. Any emergency regulations, if adopted,*
30 *shall be adopted in accordance with Chapter 3.5 (commencing*
31 *with Section 11340) of Part 1 of Division 3 of Title 2 of the*
32 *Government Code, and for the purposes of that chapter, including*
33 *Section 11349.6 of the Government Code, the adoption of these*
34 *regulations is an emergency and shall be considered by the Office*
35 *of Administrative Law as necessary for the immediate preservation*
36 *of the public peace, health and safety, and general welfare.*

37 (g) *Notwithstanding Sections 14570 and 14571, a supermarket*
38 *site that consists of reverse vending machines is “open for*
39 *business” within the meaning of this section if the supermarket site*
40 *is approved by the department to participate in the pilot program*

1 pursuant to paragraph (4) of subdivision (b) and the supermarket
2 site complies with the operating requirements specified in
3 subdivision (c).

4 (h) On or before July 1, 2006, the department shall report to the
5 Governor and Legislature on the effectiveness of the pilot program
6 and make recommendations on whether the program should be
7 continued, expanded, or modified to ensure compliance with this
8 division.

9 (i) This section shall remain in effect only until January 1,
10 2007, and as of that date is repealed, unless a later enacted statute,
11 that is enacted before January 1, 2007, deletes or extends that date.
12 is amended to read:

13 ~~14571. (a) Except as otherwise provided in this chapter, there~~
14 ~~shall be at least one certified recycling center or location within~~
15 ~~every convenience zone which accepts and pays the refund value,~~
16 ~~if any, at one location for all types of empty beverage containers~~
17 ~~and is open for business during at least 30 hours per week with a~~
18 ~~minimum of five hours of operation occurring during periods~~
19 ~~other than from Monday to Friday, from 9 a.m. to 5 p.m.~~

20 ~~(b) (1) Notwithstanding subdivision (a), the department may~~
21 ~~require a certified recycling center to operate 15 of its 30 hours of~~
22 ~~operation other than during 9 a.m. to 5 p.m.~~

23 ~~(2) Notwithstanding subdivision (a) and paragraph (1), the~~
24 ~~department may certify a recycling center that will operate less~~
25 ~~than 30 hours per week, if all of the following conditions are met:~~

26 ~~(A) The recycling center is in a rural region. For purposes of~~
27 ~~this subparagraph, "rural region" means a nonurban area~~
28 ~~identified by the department on an annual basis using Farmers~~
29 ~~Home Loan Administration criteria. Those criteria include, but are~~
30 ~~not limited to, places, open country, cities, towns, or census~~
31 ~~designated places with populations that are less than 10,000~~
32 ~~persons. The department may designate an area with a population~~
33 ~~of between 10,000 and 50,000 persons as a rural region, unless the~~
34 ~~area is identified as part of, or associated with, an urban area, as~~
35 ~~determined by the department on an individual basis.~~

36 ~~(B) The recycling center agrees to post a sign indicating the~~
37 ~~location of the nearest recycling center that is open at least 30 hours~~
38 ~~per week and that will accept all material types.~~

1 ~~(C) The needs of the community and the goals of this division~~
2 ~~will be best served by certification of the operation as a recycling~~
3 ~~center.~~

4 ~~(e) Before establishing operating hours for a certified recycling~~
5 ~~center pursuant to subdivision (b), the department shall make a~~
6 ~~determination that this action is necessary to further the goals of~~
7 ~~this division and that the proposed operating hours will not~~
8 ~~significantly decrease the ability of consumers to conveniently~~
9 ~~return beverage containers for the refund value to a certified~~
10 ~~recycling center redeeming all material types.~~

11 ~~(d) For purposes of this section, if the recycling center is staffed~~
12 ~~and is not a reverse vending machine, a center is “open for~~
13 ~~business” if all of the following requirements are met:~~

14 ~~(1) An employee of the certified recycling center or location is~~
15 ~~present during the hours of operation and available to the public~~
16 ~~to accept containers and to pay the refund values.~~

17 ~~(2) In addition to the sign specified in subdivision (h), a sign~~
18 ~~having a minimum size of 2 by 2 feet is posted at the certified~~
19 ~~recycling center or location indicating that the center or location~~
20 ~~is open. Where allowed by local zoning requirements or where~~
21 ~~zoning restrictions apply, the sign shall be of the maximum~~
22 ~~allowable size.~~

23 ~~(3) The prices paid, by weight or per container, are posted at the~~
24 ~~location.~~

25 ~~(e) Except as provided in subdivision (f), for the purpose of this~~
26 ~~section, if the recycling center consists of reverse vending~~
27 ~~machines or other unmanned automated equipment, the center is~~
28 ~~“open for business” if the equipment is properly functioning,~~
29 ~~accepting all types of empty beverage containers at the recycling~~
30 ~~location, and paying posted refund values no less than the~~
31 ~~minimums required by this division.~~

32 ~~(f) If a recycling center consists of reverse vending machines~~
33 ~~or other automated equipment, the recycling center is “open for~~
34 ~~business” if it meets either of the following requirements:~~

35 ~~(1) The equipment is properly functioning and accepting all~~
36 ~~types of empty beverage containers at one physical recycling~~
37 ~~location within the recycling location.~~

38 ~~(2) The equipment accepts all types of empty beverage~~
39 ~~containers, except those beverage containers that are labeled with~~
40 ~~a “2” as specified in subdivision (a) of Section 18015 and are~~

1 ~~larger than three liters, and the supermarket site where the~~
2 ~~equipment is located complies with all of the following:~~

3 ~~(A) The operator of the supermarket site inspects the~~
4 ~~supermarket site at least once each day to maintain and empty the~~
5 ~~machines and ensure that the site is kept clean.~~

6 ~~(B) The supermarket site makes monthly service records~~
7 ~~available to the department, showing the number of complaints per~~
8 ~~site, if any, and the response time for each service call.~~

9 ~~(C) (i) The supermarket site is operational at least 95 percent~~
10 ~~of operable time.~~

11 ~~(ii) For purposes of this paragraph, “operable time” means the~~
12 ~~actual operating hours, divided by the total hours the supermarket~~
13 ~~site is required to be open for business each month. A supermarket~~
14 ~~site’s operable hours shall be determined consistent with the~~
15 ~~supermarket’s operational hours, subject to applicable curfew~~
16 ~~requirements imposed by local ordinance.~~

17 ~~(D) The supermarket site repairs a reverse vending machine~~
18 ~~within five business hours in response to a complaint by a~~
19 ~~consumer, the dealer, or the department, that the recycling center~~
20 ~~is not operational during operable hours.~~

21 ~~(E) The supermarket site provides a receptacle adjacent to the~~
22 ~~reverse vending machine for empty beverage containers that are~~
23 ~~labeled with a “2” as specified in subdivision (a) of Section 18015~~
24 ~~and that are larger than three liters. This receptacle shall state the~~
25 ~~hours in which a consumer may return the container to the site and~~
26 ~~receive a redemption payment.~~

27 ~~(F) The operator of the supermarket site has an attendant~~
28 ~~present at the supermarket site a minimum of 20 hours per week,~~
29 ~~including no fewer than three hours on a Saturday or a Sunday~~
30 ~~between the hours of 9 a.m. and 5 p.m. and no fewer than three~~
31 ~~evening hours between the hours of 5 p.m. and 9 p.m. during one~~
32 ~~weekday evening.~~

33 ~~(G) The operator of the supermarket site provides instructions~~
34 ~~for use of the reverse vending machine at the supermarket site in~~
35 ~~appropriate languages and in pictorial representations~~
36 ~~demonstrating how to use the reverse vending machine.~~

37 ~~(H) The operator of the supermarket site maintains a toll-free~~
38 ~~telephone number attended by a live operator during operable time~~
39 ~~to answer calls from any person regarding the performance of its~~
40 ~~reverse vending machine.~~

1 ~~(f) The operator of the supermarket site posts information~~
2 ~~identifying the location of, and directions to, the nearest certified~~
3 ~~recycling center, subject to the approval of the dealer at the~~
4 ~~supermarket site.~~

5 ~~(g) Whenever a recycling center which is a reverse vending~~
6 ~~machine is not "open for business" during the 30 hours of~~
7 ~~operation required and posted pursuant to this section and Section~~
8 ~~14570, the dealer which is hosting the reverse vending machine at~~
9 ~~its place of business shall redeem all empty beverage container~~
10 ~~types at all open cash registers or one designated location in the~~
11 ~~store, as specified on the sign required pursuant to subdivision (h):~~

12 ~~(h) In addition to the sign specified in paragraph (2) of~~
13 ~~subdivision (d), each reverse vending machine shall be posted with~~
14 ~~a clear and conspicuous sign on or near the reverse vending~~
15 ~~machine which states that beverage containers may be redeemed~~
16 ~~by the host dealer if the machine is nonoperational at any time~~
17 ~~during the required 30 hours of operation, pursuant to subdivision~~
18 ~~(g). The department shall determine the size and location of the~~
19 ~~sign and the message required to be printed on the sign.~~

20 ~~(i) On or before July 1, 2008, the department shall provide a~~
21 ~~report to the Legislature on the effectiveness of reverse vending~~
22 ~~machines in maintaining or increasing recycling at supermarket~~
23 ~~sites. The study shall include, but not be limited to, a comparison~~
24 ~~of recycling volumes, by container type, at supermarket sites~~
25 ~~without reverse vending machines and sites offering reverse~~
26 ~~vending machine service. The study shall be conducted by an~~
27 ~~independent contractor, as identified by the department.~~

28 ~~(j) This section shall remain in effect only until January 1,~~
29 ~~2009, and as of that date is repealed, unless a later enacted statute,~~
30 ~~that is enacted before January 1, 2009, deletes or extends that date.~~

31 ~~SEC. 2.—Section 14571 is added to the Public Resources Code,~~
32 ~~to read:~~

33 ~~14571.—(a) Except as otherwise provided in this chapter, there~~
34 ~~shall be at least one certified recycling center or location within~~
35 ~~every convenience zone which accepts and pays the refund value,~~
36 ~~if any, at one location for all types of empty beverage containers~~
37 ~~and is open for business during at least 30 hours per week with a~~
38 ~~minimum of five hours of operation occurring during periods~~
39 ~~other than from Monday to Friday, from 9 a.m. to 5 p.m.~~

~~(b) (1) Notwithstanding subdivision (a), the department may require a certified recycling center to operate 15 of its 30 hours of operation other than during 9 a.m. to 5 p.m.~~

~~(2) Notwithstanding subdivision (a) and paragraph (1), the department may certify a recycling center that will operate less than 30 hours per week, if all of the following conditions are met:~~

~~(A) The recycling center is in a rural region. For purposes of this subparagraph, "rural region" means a nonurban area identified by the department on an annual basis using Farmers Home Loan Administration criteria. Those criteria include, but are not limited to, places, open country, cities, towns, or census designated places with populations that are less than 10,000 persons. The department may designate an area with a population of between 10,000 and 50,000 persons as a rural region, unless the area is identified as part of, or associated with, an urban area, as determined by the department on an individual basis.~~

~~(B) The recycling center agrees to post a sign indicating the location of the nearest recycling center that is open at least 30 hours per week and that will accept all material types.~~

~~(C) The needs of the community and the goals of this division will be best served by certification of the operation as a recycling center.~~

~~(c) Before establishing operating hours for a certified recycling center pursuant to subdivision (b), the department shall make a determination that this action is necessary to further the goals of this division and that the proposed operating hours will not significantly decrease the ability of consumers to conveniently return beverage containers for the refund value to a certified recycling center redeeming all material types.~~

~~(d) For purposes of this section, if the recycling center is staffed and is not a reverse vending machine, a center is "open for business" if all of the following requirements are met:~~

~~(1) An employee of the certified recycling center or location is present during the hours of operation and available to the public to accept containers and to pay the refund values.~~

~~(2) In addition to the sign specified in subdivision (h), a sign having a minimum size of 2 by 2 feet is posted at the certified recycling center or location indicating that the center or location is open. Where allowed by local zoning requirements or where~~

1 ~~zoning restrictions apply, the sign shall be of the maximum~~
2 ~~allowable size.~~

3 ~~(3) The prices paid, by weight or per container, are posted at the~~
4 ~~location.~~

5 ~~(e) Except as provided in subdivision (f), for the purpose of this~~
6 ~~section, if the recycling center consists of reverse vending~~
7 ~~machines or other unmanned automated equipment, the center is~~
8 ~~“open for business” if the equipment is properly functioning,~~
9 ~~accepting all types of empty beverage containers at the recycling~~
10 ~~location, and paying posted refund values no less than the~~
11 ~~minimums required by this division.~~

12 ~~(f) If a recycling center consists of reverse vending machines~~
13 ~~or other automated equipment, the recycling center is “open for~~
14 ~~business” if the equipment is properly functioning and accepting~~
15 ~~all types of empty beverage containers at one physical recycling~~
16 ~~location within the recycling location.~~

17 ~~(g) Whenever a recycling center which is a reverse vending~~
18 ~~machine is not “open for business” during the 30 hours of~~
19 ~~operation required and posted pursuant to this section and Section~~
20 ~~14570, the dealer which is hosting the reverse vending machine at~~
21 ~~its place of business shall redeem all empty beverage container~~
22 ~~types at all open cash registers or one designated location in the~~
23 ~~store, as specified on the sign required pursuant to subdivision (h).~~

24 ~~(h) In addition to the sign specified in paragraph (2) of~~
25 ~~subdivision (d), each reverse vending machine shall be posted with~~
26 ~~a clear and conspicuous sign on or near the reverse vending~~
27 ~~machine which states that beverage containers may be redeemed~~
28 ~~by the host dealer if the machine is nonoperational at any time~~
29 ~~during the required 30 hours of operation, pursuant to subdivision~~
30 ~~(g). The department shall determine the size and location of the~~
31 ~~sign and the message required to be printed on the sign.~~

32 ~~(i) This section shall become operative on January 1, 2009.~~

33 ~~SEC. 3. Section 14571.05 is added to the Public Resources~~
34 ~~Code, to read:~~

35 ~~14571.05. (a) A certified recycler may operate under~~
36 ~~paragraph (2) of subdivision (f) of Section 14571 if a dealer where~~
37 ~~the supermarket site is located certifies to the department in~~
38 ~~writing that it has authorized the recycling center to operate under~~
39 ~~the conditions specified in paragraph (2) of subdivision (f) of~~
40 ~~Section 14571.~~

~~(b) Within seven calendar days of receiving a written request from the dealer who certified the recycler pursuant to subdivision (a), to disqualify the certified recycler from operating under the conditions specified in paragraph (2) of subdivision (f) of Section 14571, the department shall disqualify that certified recycler.~~

~~(c) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.~~

~~SEC. 4.~~

SEC. 2. This act shall become operative only if Senate Bill No. 23 of the 2003–04 Regular Session is enacted and becomes effective on or before January 1, 2004.

